

PUBLIC LAW 103-414 (H.R. 4922), 108 STAT. 4279; OCTOBER 25, 1994

COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT (CALEA)

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Bill Status Reports (With Summaries) :

H.R. 4922 - Communications Assistance for Law Enforcement Act

SPONSOR: Rep Edwards, D. (introduced 08/09/94)

OFFICIAL TITLE AS INTRODUCED:

A bill to amend title 18, United States Code, to make clear a telecommunications carrier's duty to cooperate in the interception of communications for law enforcement purposes, and for other purposes.

Floor Actions:

10/25/94 Public Law 103-414 (11/29/94 CR D1259)  
10/18/94 Measure presented to President (11/29/94 CR H11563)  
10/17/94 Enrolled Measure signed in Senate (11/30/94 CR S15225)  
10/17/94 Enrolled Measure signed in House (11/29/94 CR H11435)  
10/07/94 Measure passed Senate (CR S14660)  
10/07/94 Measure considered in Senate (CR S14660)  
10/07/94 Measure called up by unanimous consent in Senate (CR S14660)  
10/05/94 Measure passed House, amended (CR H10917)  
10/05/94 Measure considered in House (CR H10917)  
10/04/94 Measure considered in House (CR H10773-10783)  
10/04/94 Measure called up under motion to suspend rules and pass in House (CR H10773)  
10/04/94 Referred to House Committee on Energy and Commerce (CR H10726)  
10/04/94 Reported to House from the Committee on the Judiciary, amended, H. Rept. 103-827 (Part I) (CR H10726)

House Actions

Aug 9, 94:

Referred to the House Committee on Judiciary.

Aug 10, 94:

Referred to the Subcommittee on Civil and Constitutional Rights.

Aug 11, 94:

Joint Hearings Held by the Subcommittee on Civil and Constitutional Rights and by the Senate Committee on the Judiciary, Subcommittee on Technology and the Law.

Aug 17, 94:

Subcommittee Consideration and Mark-up Session Held.

Aug 17, 94:

Forwarded by Subcommittee to Full Committee.

Sep 29, 94:

Committee Consideration and Mark-up Session Held.

Sep 29, 94:

Ordered to be Reported (Amended).

Oct 4, 94:

Reported to House (Amended) by House Committee on Judiciary. H. Rept. 103-827, Part I.

Oct 4, 94:

Called up by House under suspension of the rules.

Referred sequentially to the House Committee on Energy and Commerce for a period ending not later than Dec. 2, 1994 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(h), rule X.

Oct 5, 94:

Considered by House as unfinished business.

Passed House (Amended) by voice vote.

#### Senate Actions

Oct 6, 94:

Received in the Senate, read twice.

Oct 7, 94:

Passed Senate without amendment by Voice Vote.

Oct 12, 94:

Message on Senate action sent to the House.

#### Executive Actions

Oct 7, 94:

Cleared for White House.

Oct 18, 94:

Presented to President.

Oct 25, 94:

Became Public Law No: 103-414.

Signed by President.

#### COMMITTEE(S) OF REFERRAL:

House Judiciary

House Energy and Commerce

#### COMMITTEE(S) REPORTING:

House Judiciary

#### SUBCOMMITTEE(S):

Hsc Civil and Constitutional Rights

#### SUMMARY:

(REVISED AS OF 10/05/94 -- Passed House, amended)

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Title I: Interception of Digital and Other Communications

Title II: Amendments to Title 18, United States Code

Title III: Amendments to the Communications Act of 1934

Communications Assistance for Law Enforcement Act - Title I: Interception of Digital and Other Communications - Communications Assistance for Law Enforcement Act - Requires a telecommunications carrier to ensure that its equipment, services, or facilities that provide a customer or subscriber with the ability to originate, terminate, or direct communications are capable of: (1) isolating and enabling the Government, pursuant to a court order or other lawful authorization, to intercept all of the subscriber's wire and electronic communications over such facilities concurrently with their transmission or at any later time acceptable to the Government; (2) isolating and enabling the Government, pursuant to a court order or other lawful authorization, to access call-identifying information (CII) that

is reasonably available to the carrier except that, with regard to information acquired solely pursuant to the authority for pen registers and trap and trace devices, such CII shall not include any information that may disclose the physical location of the subscriber (except to the extent that the location may be determined from the telephone number); (3) delivering intercepted communications and CII to the Government, pursuant to a court order or other lawful authorization, in a format such that they may be transmitted by federally procured equipment, facilities, or services to a location other than the premises of the carrier; and (4) facilitating authorized communications interceptions and CII access unobtrusively and with a minimum of interference with any subscriber's telecommunications service in a manner that protects the privacy and security of communications and CII not authorized to be intercepted and information regarding the Government's interception of communications and CII access. Exempts information services and equipment, services, or facilities that support the transport or switching of communications for private networks or for the sole purpose of interconnecting telecommunications carriers.

(Sec. 103) Provides that this Act does not authorize law enforcement agencies or officers to: (1) require any specific design of equipment, facilities, services, features, or system configurations to be adopted by providers of wire or electronic communication service, manufacturers of telecommunications equipment, or providers of telecommunications support services; or (2) prohibit the adoption of any equipment, facility, service, or feature by such entities.

Prohibits a carrier from being responsible for decrypting or ensuring the Government's ability to decrypt any communication encrypted by a subscriber or customer, unless the encryption was provided by the carrier and the carrier possesses the information to decrypt the communications.

Allows a carrier, in emergency or exigent circumstances, to fulfill its responsibilities of delivering intercepted communications and CII to the Government by allowing monitoring at its premises if that is the only means of accomplishing the interception or access.

Provides that when a commercial mobile carrier that has been providing assistance to the Government pursuant to a court order or lawful authorization for the interception of wire or electronic communications or CII access hands off a communication to another service area or provider, that carrier must inform the Government of such provider.

(Sec. 104) Requires the Attorney General to publish in the Federal Register and notify appropriate industry associations and standard-setting organizations of: (1) the actual number of communication interceptions, pen registers, and trap and trace devices representing a portion of the estimated maximum capacity set forth under this Act that Government agencies authorized to conduct electronic surveillance may conduct and use simultaneously by four years after the enactment of this Act; and (2) the estimated maximum capacity required to accommodate all of the communication interceptions, pen registers, and trap and trace devices that such agencies may conduct and use simultaneously after four years after the enactment of this Act. Requires a carrier: (1) within three years after publication of such notice or within four years after the enactment of this Act, whichever is later, to ensure that its systems are capable of expanding to such maximum capacity and of accommodating simultaneously such number of such interceptions and devices; and (2) after such date, to ensure that it can accommodate increases in the number of such interceptions and devices that authorized agencies may seek to conduct and use, up to the maximum capacity requirement.

Requires: (1) the Attorney General to periodically notify carriers of any necessary increases in the maximum capacity requirement; and (2) the carriers, within three years after receiving such notice, to ensure that their systems are capable of expanding to such maximum capacity or to submit a statement to the Attorney General for review that identifies systems or services that do not have the capacity to accommodate simultaneously the number of interceptions and devices specified in the notice. Authorizes the Attorney General to agree to reimburse carriers for reasonable costs directly associated with modifications to attain such capacity requirement. Provides that until the Attorney General agrees to reimburse such carrier the carrier shall be in compliance with the capacity notices.

(Sec. 105) Requires a carrier to ensure that any interception of communications or CII access effected within its switching premises can be activated only in accordance with a court order or other lawful authorization and with the affirmative intervention of a carrier officer or employee acting in accordance with Federal Communications Commission (FCC) regulations.

(Sec. 106) Requires manufacturers of telecommunications transmission or switching equipment and providers of telecommunications support services to make available to the carriers using their equipment, facilities, or services such necessary features or modifications as are necessary to permit such carriers to comply with the capability and capacity requirements in this Act.

(Sec. 107) Provides that the absence of technical requirements or standards for implementing the assistance capability requirements shall not: (1) preclude a carrier, manufacturer, or support services provider from deploying a technology of service; or (2) relieve such individuals of the imposed obligations.

Allows, under specified conditions, Government agencies or persons to petition the FCC to establish technical requirements or standards that: (1) meet the assistance capability requirements by cost-effective methods; (2) protect the privacy and security of unauthorized interception of communications; (3) minimize the cost of such compliance on residential ratepayers; (4) serve the U.S. policy to encourage the provision of new technologies and services to the public; and (5) provide a reasonable time and conditions for compliance with, and the transition to, new standards, including defining the obligations of carriers under this Act during any transition period.

Specifies conditions for extensions of the deadline for carriers to comply with this Act.

(Sec. 108) Requires a court to issue an order enforcing this Act only if the court finds that: (1) alternative technologies, capabilities, or the facilities of another carrier are not reasonably available to law enforcement for implementing the interception of communications or CII access; and (2) compliance with the requirements of this Act is reasonably achievable through the application of available technology to the equipment, facility, or service at issue or would have been reasonably achievable if timely action had been taken.

(Sec. 109) Authorizes the Attorney General to agree to pay carriers for all reasonable costs directly associated with the modifications performed by them in connection with equipment, facilities, and services installed or deployed on or before January 1, 1995, to establish necessary capabilities to comply with this Act. Requires the FCC, within one year after a petition is filed by a carrier or other interested person, to determine whether such compliance is reasonably achievable with respect to such entities installed or deployed after such date. Authorizes the Attorney General to agree to pay the carrier for the additional costs of making such compliance reasonably achievable if it is not. Deems the carrier to be in compliance with this Act if the Attorney General does not agree to pay such costs.

(Sec. 110) Authorizes appropriations for FY 1995 through 1998.

Title II: Amendments to Title 18, United States Code - Amends the Federal criminal code to authorize a court that issues a surveillance order to direct: (1) a carrier to comply with this Act; and (2) a provider of support services to the carrier or the manufacturer of the carrier's transmission or switching equipment to furnish modifications necessary for the carrier to comply.

Authorizes the Attorney General, in a civil action in the appropriate U.S. district court, to obtain an order in accordance with this Act directing that a carrier, a manufacturer of its equipment, or a provider of its support services comply with this Act.

(Sec. 202) Revises the definition of "wire and electronic communication" for purposes of provisions prohibiting interception thereof to include the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit. Imposes a fine of up to \$500 upon any person who intentionally intercepts such communications.

(Sec. 203) Revises the definition of a radio communication that is "readily accessible to the general public" to exclude an electronic communication.

(Sec. 204) Imposes a fine and a one year's imprisonment upon a person who intentionally intercepts radio communications that are transmitted using modulation techniques the essential parameters of which have been withheld from the public with the intention of preserving the privacy of such communication.

(Sec. 205) Permits interception of electronic communications by an electronic service provider in the normal course of business to render services or to protect rights of property.

(Sec. 206) Prohibits the use, production, or possession of an altered telecommunication instrument, a scanning receiver, or hardware or software used to alter such instruments to obtain unauthorized access to telecommunications services. Imposes 15 years' imprisonment and a fine of \$50,000 or twice the value obtained by the offense.

(Sec. 207) Directs a provider of electronic communication service or remote computing service to disclose to a governmental entity the name, address, telephone toll billing records, telephone number or other subscriber number or identity, and length of service of a subscriber to, or customer of, such service and the types of services the subscriber or customer utilizes if the entity uses an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury or trial subpoena.

Requires the governmental entity to offer specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic communication or the records or other information sought by the entity are relevant and material to an ongoing criminal investigation before a court order may be issued for disclosure of such information.

Requires a Government agency authorized to install and use a pen register under this Act or under State law to use technology reasonably available to it that restricts the recording or decoding of electronic or other impulses to the dialing and signaling information utilized in call processing.

(Sec. 208) Authorizes the acting Deputy Assistant Attorney General in the criminal Division to approve a court's application to issue an order concerning interception of wire, oral, or electronic communications.

Title III: Amendments to the Communications Act of 1934 - Amends the Communications Act of 1934 (the Act) to require the FCC to prescribe necessary rules to implement the requirements of this Act. Authorizes: (1) a carrier to petition the FCC to adjust charges, practices, classifications, and regulations to recover costs expended for making modifications to equipment, facilities, or services pursuant to the capability requirements of such Act; (2) and the FCC to grant such petition if it determines that the costs are reasonable and that permitting recovery costs is consistent with the public interest. Requires the FCC to convene a Federal-State joint board to recommend appropriate changes to part 36 of the FCC's rules concerning recovery of such costs.

(Sec. 302) Revises the FCC's schedule of application fees for common carrier services to provide for recovery of costs for proceedings relating to determining whether compliance with the assistance capability requirements of this Act is reasonably achievable with respect to equipment, facilities, or services installed or deployed after January 1, 1995.

(Sec. 303) Requires the FCC to prescribe a uniform system of accounts for use by telephone companies requiring that common carriers maintain a system of accounting methods, procedures, and techniques (including accounts and supporting records and memoranda) to ensure a proper allocation of all costs to and among telecommunications services, facilities, products, and classes of such entities which are developed, manufactured, or offered by such common carriers.

(Sec. 304) Eliminates certain expired and outdated provisions in the Act.

Amends the Communications Satellite Act of 1962 with respect to the Communications Satellite Corporation to: (1) remove the price limitation on the sale of capital stock shares; (2) eliminate certain reporting requirements by the President and the FCC to the Congress concerning the Corporation's activities and programs; (3) rescind its authority to participate in other maritime satellite telecommunications systems other than the International Maritime Satellite Organization; (4) revise the FCC's operational arrangements for the Corporation to interconnect its satellite earth terminal station facilities and services with domestic and international common carriers; and (5) eliminate specified reporting requirements.

S.2375 - (No Short Title)

SPONSOR: Sen Leahy (introduced 08/09/94)

OFFICIAL TITLE AS INTRODUCED:

A bill to amend title 18, United States Code, to make clear a telecommunications carrier's duty to cooperate in the interception of communications for law enforcement purposes, and for other purposes.

Floor Actions:

10/07/94 Measure passed Senate, amended (CR S14666)  
10/07/94 Measure considered in Senate (CR S14663-14666)  
10/07/94 Measure called up by unanimous consent in Senate (CR S14663)  
10/06/94 Report filed by Senate Committee on the Judiciary, S. Rept. 103-402 (CR S14478)  
09/28/94 Reported to Senate from the Committee on the Judiciary, amended (without written report) (CR S13580)  
08/25/94 Referred to Senate Committee on the Judiciary (CR S12619)  
08/25/94 Reported to Senate from Committee on Commerce, Science, and Transportation (without written report) (CR S12619)

Senate Actions

Aug 9, 94:

Read twice and referred to the Committee on Commerce.

Aug 25, 94:

Committee on Commerce. Ordered to be reported without amendment favorably.

Aug 25, 94:

Committee on Commerce. Reported to Senate by Senator Hollings without recommendation without amendment.

Without written report.

Placed on Senate Legislative Calendar under General Orders. Calendar No. 603.

Referred to the Committee on Judiciary.

Sep 19, 94:

Referred to Subcommittee on Technology and the Law.

Sep 23, 94:

Subcommittee on Technology and the Law. Approved for full committee consideration with an amendment in the nature of a substitute favorably.

Sep 28, 94:

Committee on Judiciary. Ordered to be reported with an amendment in the nature of a substitute favorably.

Sep 28, 94:

Committee on Judiciary. Reported to Senate by Senator Biden with an amendment in the nature of a substitute.

Without written report.

Placed on Senate Legislative Calendar under General Orders. Calendar No. 684.

Oct 6, 94:

By Senator Biden from Committee on Judiciary filed written report. Report No. 103-402.

Oct 7, 94:

Passed Senate with an amendment by Voice Vote.

Message on Senate action sent to the House.

Congressional Record Page References:

08/09/94 Introductory remarks on Measure (CR S11055-11056, S11059-11062)

08/09/94 Full text of Measure printed (CR S11056-11059)

COMMITTEE(S) OF REFERRAL:

Senate Commerce, Science, and Transportation  
Senate Judiciary

COMMITTEE(S) REPORTING:

Senate Commerce, Science, and Transportation  
Senate Judiciary

SUBCOMMITTEE(S):

Ssc Criminal Law

SUMMARY:

(REVISED AS OF 10/07/94 -- Measure passed Senate, amended)

Amends the Federal criminal code to require a telecommunications carrier to ensure that its services or facilities that provide a customer or subscriber with the ability to originate, terminate, or direct communications are capable of: (1) isolating and enabling the Government to intercept all of the subscriber's wire and electronic communications over such facilities concurrently with their transmission or at any later time acceptable to the Government; (2) isolating and enabling the Government to access call-identifying information (CII) that is reasonably available to the carrier except that, with regard to information acquired solely pursuant to the authority for pen registers and trap and trace devices, such CII shall not include any information that may disclose the physical location of the subscriber (except to the extent that the location may be determined from the telephone number); (3) delivering intercepted communications and CII to the Government in a format such that they may be transmitted by federally procured facilities or services to a location other than the premises of the carrier; and (4) facilitating authorized communications interceptions and CII access unobtrusively and with a minimum of interference with any subscriber's telecommunications service in a manner that protects the privacy and security of communications and CII not authorized to be intercepted and information regarding the Government's interception of communications and CII access. Exempts information services and services or facilities that support the transport or switching of communications for the sole purpose of interconnecting telecommunications carriers.

Prohibits a carrier from being responsible for decrypting or ensuring the Government's ability to decrypt any communication encrypted by a subscriber or customer, unless the encryption was provided by the carrier and the carrier possesses the information to decrypt the communication.

Allows a carrier, in emergency or exigent circumstances, to fulfill its responsibilities of delivering intercepted communications and CII to the Government by allowing monitoring at its premises if that is the only means of accomplishing the interception or access.

Provides that when a mobile carrier that has been providing assistance to the Government pursuant to a court order or lawful authorization for the interception of wire or electronic communications or CII access, hands off a communication to another service area or provider, that carrier must inform the Government of such provider.

Requires the Attorney General to publish in the Federal Register and notify appropriate carrier associates, standard-setting organizations, and for a of: (1) the estimated maximum capacity required to accommodate all of the communication interceptions, pen registers, and trap and trace devices that government agencies authorized to conduct electronic surveillance may conduct and use simultaneously; and (2) the number of communication interceptions, pen registers, and trap and trace devices representing a portion of such maximum capacity that such agencies may conduct and use simultaneously after four years after the enactment of this Act. Requires a carrier: (1) within three years after publication of such notice or within four years after the enactment of this Act, whichever is later, to ensure that its systems are capable of expanding to such maximum capacity and of accommodating simultaneously such number of such interceptions and devices; and (3) after such date, to ensure that it can

accommodate increases in the number of such interceptions and devices that authorized agencies may seek to conduct and use, up to the maximum capacity requirement.

Requires: (1) the Attorney General to periodically notify carriers of any necessary increases in the maximum capacity requirement; and (2) the carriers, within three years after receiving such notice, to ensure that their systems are capable of expanding to such maximum capacity.

Requires a carrier to ensure that any court ordered or lawfully authorized interception of communications or CII access effected within its switching premises can be activated only with the affirmative intervention of a carrier officer or employee.

Requires manufacturers of its telecommunications transmission and switching equipment and providers of telecommunications support services to make available to the carriers using their equipment or services such necessary modifications as are necessary to permit such carriers to comply with this Act.

Provides that the absence of technical requirements or standards for implementing the assistance capability requirements shall not: (1) preclude a carrier, manufacturer, or services provider from deploying a technology of service; or (2) relieve such individuals of the imposed obligations.

Allows, under specified conditions, government agencies or persons to petition the Federal Communication Commission (FCC) to establish technical requirements or standards that: (1) meet the assistance capability requirements; (2) protect the privacy and security of unauthorized interception of communications; and (3) serve the U.S. policy to encourage the provision of new technologies and services to the public.

Specifies conditions for extensions of the deadline for carriers to comply with this Act.

Authorizes a court that issues a surveillance order to direct: (1) a carrier to comply with this Act; and (2) a provider of support services to the carrier or the manufacturer of the carrier's transmission or switching equipment to furnish modifications necessary for the carrier to comply.

Authorizes the Attorney General to apply for and the appropriate U.S. district court to issue, an order directing that a carrier, a manufacturer of its equipment, or a provider of its support services comply with this Act only if the court finds that: (1) alternative technologies, capabilities, or the facilities of another carrier are not reasonably available to law enforcement for implementing the interception of communications of CII access; and (2) compliance with the requirements of this Act is reasonably achievable through the application of available technology to the feature or service at issue or would have been reasonably achievable if timely action had been taken.

Requires the Attorney General to pay carriers for all reasonable costs directly associated with: (1) the modifications performed by carriers before the effective date of the assistance capabilities requirements; (2) meeting the maximum capacity requirements; or (3) expanding existing facilities to accommodate simultaneously the prescribed number of interceptions, pen registers, and trap and trace devices. Authorizes appropriations.

Authorizes the Attorney General, if compliance with the assistance capability requirements is not reasonably achievable, to pay for all such reasonable costs directly associated with achieving compliance.

(Sec. 5) Revises the definition of "wire and electronic communication" for purposes of provisions prohibiting interception thereof to include the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit. Imposes a fine of up to \$500 upon any person who intentionally intercepts such communication.

(Sec. 6) Revises the definition of a radio communication that is "readily accessible to the general public" to exclude an electronic communication.

(Sec. 7) Imposes a fine and a one-year imprisonment upon a person who intentionally intercepts radio communications that are transmitted using modulation techniques the essential parameters of which have been withheld from the public with the intention of preserving the privacy of such communication.



(Sec. 8) Permits interception of electronic communications by an electronic service provider in the normal course of business to render services or to protect rights of property.

(Sec. 9) Prohibits the use, production, or possession of an altered telecommunication instrument, a scanning receiver, or hardware or software used to alter such instruments to obtain unauthorized access to telecommunications services. Imposes 15 years' imprisonment and a fine of \$50,000 or twice the value obtained by the offense.

(Sec. 10) Directs a provider of electronic communication service or remote computing service to disclose to a governmental entity the name, address, telephone billing records, and length of service of a subscriber to, or customer of, such service and the types of services the subscriber or customer utilizes if the entity uses an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury or trial subpoena.

Requires the governmental entity to offer specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic communication or the records or other information sought by the entity are relevant and material to an ongoing criminal investigation before a court order may be issued for disclosure of such information.

Requires a government agency authorized to install and use a pen register under this Act or under State law to use technology reasonably available to it that restricts the recording or decoding of electronic or other impulses to the dialing and signaling information utilized in call processing.